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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

NATIONAL TPS ALLIANCE, MARIELA  
GONZÁLEZ, FREDDY JOSE ARAPE RIVAS,  
M.H., CECILIA DANIELA GONZÁLEZ  
HERRERA, ALBA CECILIA PURICA  
HERNÁNDEZ, E.R., HENDRINA VIVAS  
CASTILLO, A.C.A., SHERIKA BLANC, VILES  
DORSAINVIL, and G.S.,

Plaintiffs,

vs.

KRISTI NOEM, in her official capacity as  
Secretary of Homeland Security, UNITED  
STATES DEPARTMENT OF HOMELAND  
SECURITY, and UNITED STATES OF  
AMERICA,

Defendants.

Case No. 3:25-cv-01766-EMC

Hon. Sallie Kim

**PLAINTIFFS' DISCOVERY LETTER  
BRIEF RE: DEFENDANTS' ATTORNEY  
CLIENT PRIVILEGE INVOCATION**

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1 In response to the Court’s instruction at the discovery hearing this morning, Plaintiffs provide  
2 this letter brief describing Plaintiffs’ two requests for the Court to consider whether certain  
3 documents have been properly withheld under the attorney-client privilege (“ACP”).

4 **Background**

5 The parties previously briefed their respective positions regarding the invocation of ACP in  
6 connection with documents Defendants have deemed responsive to Plaintiffs’ requests for  
7 production. Dkt. 177 at 2-4 (Plaintiffs’ position) & 8 (Defendants’ position); Dkt. 211 at 4  
8 (Plaintiffs’ position) & 7-8 (Defendants’ position). The Court subsequently issued guidance in an  
9 initial order. Dkt. 184 at 7 (initial ruling on attorney client privilege).

10 In its order, the Court “reserve[d] ruling” on the propriety of Defendants’ invocation of ACP  
11 as to two groups of documents: (1) four documents which had previously been produced to the Court  
12 in camera on June 4, 2025—NTPSA\_USCIS 401, 419, 1473, and 1471—for which Defendants’  
13 privilege log was insufficient to justify the privilege assertion and (2) documents not included among  
14 the bellwether documents the Court initially reviewed. *Id.* In response to the Court’s order,  
15 Defendants provided to the Court an amended privilege log by email on June 10, 2025 at 5:59 pm. In  
16 the amended privilege log, Defendants stated that NTPSA\_USCIS\_00001471 should have been  
17 NTPSA\_USCIS\_00001477.

18 **Plaintiffs’ Requests**

19 First, Plaintiffs request that this Court determine whether the four documents in the first  
20 group (NTPSA\_USCIS 401, 419, 1473, and 1477) are properly withheld in light of the amended  
21 privilege log. According to the amended privilege log, all four documents are draft Federal Register  
22 notices for the Haiti vacatur decision. Draft Federal Register notices and Decision Memoranda, and  
23 related communications, were of great relevance to the District Court’s analysis in *Ramos v. Nielsen*,  
24 336 F. Supp. 3d 1075, 1086, 1096, 1101, 1104 (N.D. Cal. 2018). To date, Defendants have produced  
25 hardly any deliberative documents related to the Haiti partial vacatur decision, increasing the  
26 importance of the documents withheld related to Haiti in understanding the motivations and legality  
27 of the agency’s decisions in connection with the challenged partial vacatur of the Haiti TPS  
28 extension. The amended privilege description acknowledges that the withheld documents include

1 policy options and language suggestions from policy staff (rather than agency counsel). This is the  
 2 type of document which has otherwise been produced following this court’s deliberative process  
 3 privilege ruling. Dkt. 184. Here, the ACP invocation on each of these documents is apparently  
 4 related to “attorney edits, comments and advice” provided by one or two lawyers from the Office of  
 5 General Counsel (Joseph Mazzara and/or Brian Kelliher). Defendants have not provided any  
 6 explanation as to why those “edits, comments and advice” could not be redacted, and the document  
 7 otherwise produced.

8 Second, Plaintiffs request, and understand that the Court agreed, to conduct an *in camera*  
 9 review of 25 documents in the second group that Plaintiffs have identified as high-priority  
 10 documents withheld in their entirety as ACP and for which Plaintiffs contend that the privilege log  
 11 does not substantiate Defendants’ privilege assertion. Dkts. 211-4 (privilege log excerpt where  
 12 privilege descriptions lend doubt as to whether they concern legal advice in their entirety); Dkt. 211-  
 13 5 (privilege log excerpt where privilege log entries do not appear to include agency counsel as  
 14 author, sender, recipient, or custodian).

15 Date: June 23, 2025

Respectfully submitted,

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18 /s/ Emilou MacLean  
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**CERTIFICATE OF SERVICE**

I hereby certify that on June 23, 2025, I caused the foregoing to be electronically filed with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to all counsel of record.

ACLU FOUNDATION  
OF NORTHERN CALIFORNIA

/s/ Emilou MacLean  
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